UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,321	06/27/2001	Sergey N. Razumov	59036-022	3651

7590   08/05/2008

McDERMOTT, WILL & EMERY
600 13Th Street, N.W.
Washington, DC 20005-3096

EXAMINER
HAIDER, FAWAAD

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
08/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1   RECORD OF ORAL HEARING

2

3   UNITED STATES PATENT AND TRADEMARK OFFICE

4   —————————

5

6   BEFORE THE BOARD OF PATENT APPEALS

7   AND INTERFERENCES

8   —————————

9

10   Ex parte SERGEY N. RAZUMOV

11   —————————

12

13   Appeal 2008-0121

14   Application 09/891,321

15   Technology Center 3600

16   —————————

17

18   Oral Hearing Held: June 19, 2008

19   —————————

20

21

22 Before MURRIEL E. CRAWFORD, DAVID B. WALKER, and JOHN C.

23 KERINS, Administrative Patent Judges

24

25 ON BEHALF OF THE APPELLANT:

26

27   ALEXANDER V. YAMPOLSKY, ESQUIRE

28   McDermott, Will & Emery

29   600 13th Street, NW

30   Washington, DC 20005-3096

31

32

33

34 The above-entitled matter came on for hearing on Thursday, June 19, 2008,

35 commencing at 9:30 am, at the U.S. Patent and Trademark Office, 600

36 Dulany Street, Alexandria, Virginia, before Deborah Rinaldo, Notary Public.

| 1 | P R O C E E D I N G S |
| 2 | |

3   JUDGE CRAWFORD: Good morning, Mr. Yampolsky. You can

4   begin whenever you are ready.

5   MR. YAMPOLSKY: This case is kind of unusual because it relates

6   more to human nature, human psychology. For me, quite frankly, it's a first

7   time patent application which relates to connection between human nature,

8   human perceptions and technology. In this case, it's online shopping.

9   We all know, of course, online shopping extremely popular. But

10   certain items very difficult to buy online. For example, like clothes or shoes

11   or something that people want to try, try on before buying.

12   And research shows that people very reluctant to buy online these

13   items because their first desire, I want to try it first. But of course it's

14   impossible to do online.

15   But online gives another good advantage, actually. It can provide

16   basically unlimited assortment for certain stuff. It's like you can select

17   whatever suit you want, whatever dress, thousands items available.

18   And again, the same problem: I want to select among thousand items,

19   but I don't want to search all this stuff because when I look at Internet and

20   see thousand items, I don't want anything anymore.

21   This is basically problem that this inventor wanted to solve. It's the

22   reason why I told you it's kind of very unusual case. When I wrote it, you

23   know, I was kind of a little bit amazed, my friend.

24   Then basically he found kind of unusual solution, I would say. He

25   believe, okay, if people can't try on stuff before buying definitely, then let's

26   select some kind of people representatives, human being who will try stuff,

1　goods certainly, before putting it online.

2　　　And basically he found that each category can be described by certain

3　amount of specific features, that each body can be categorized in certain

4　way.

5　　　For example, he believes that to represent suits, men's suits, for

6　example, you need about like 50, 60 different categories depending on shape

7　or whatever and different characteristics. Age, probably. A lot of stuff. I'm

8　not an expert on tailoring.

9　　　But basically he experimented on that and found that if he hire, for

10　example, 60 human models to try on everything which he has, for example,

11　in some huge warehouse, it can represent experience for everybody. But

12　problem is how basically to relay this experience to us who will buy it

13　online.

14　　　And he suggested to match each customer to his or her representative

15　who already tried this stuff, computer matching, of course.

16　　　Basically this guy run a grocery store, and he has a lot of grocery

17　chain, and he has a lot of customers who come in anyway to buy groceries.

18　And he put some kind of measuring room of a tailor. Then when you came

19　to buy groceries, you can make measurement of yourself and determine

20　everything you want. Actually, they have complete basically list of your

21　characteristics or whatever.

22　　　And when you are buying online, they determine actually what you

23　are buying and select to which category or to which group you relate and

24　found model -- human model which represents this category.

25　　　Again, how to limit number of items. These human models, ones that

26　are wearing stuff, they are doing it together probably with experts and they

3

1   put some kind of marks, quantitative marks from, I don't know, five to one,

2   for example, to represent experience.

3   I tried, for example, certain suit. I feel very comfortable, but it's still

4   not great or whatever. Then I put three, for example. I feel that this is

5   perfect, I put five, right. Then basically each representative, basically,

6   human models, puts certain marks when he tries some stuff. And they have,

7   of course, for each good in each categories, they have these marks.

8   When I am shopping online, for example, I trust my human

9   representative. I don't want to look alone. So I select that I want to look

10   only among five stars item, for example. Only perfect for myself.

11   Then I have some kind of limited assortment, five, six, or whatever. I

12   don't need to -- if I'm skeptical or I didn't find anything, okay, I will look

13   four stars. Stuff like that.

14   Very simple, you know, but kind of, of course strange, I will say. I

15   called it crazy, but I can do it, of course, for invention. But unusual, at least.

16   Basically customer can select what was selected for him and can

17   select this narrow group based on the representative that tried on all stuff in

18   this category. Then basically instead of thousands items, I can limit myself

19   to three, four.

20   Of course, computer can do it whatever you want. Then it's clear that

21   you can play with this stuff whatever necessary depending on your eyes or

22   whatever. Probably you can select representatives.

23   And only problem here probably is economy. I don't know how

24   economical it going to be. Probably very expensive, of course, to try

25   everything. But at least something new.

26   Claim very narrow, very straightforward. I'm not sure if you want me

1   to read it. I just printed it out. Basically I was trying to write as narrow and
2   as straightforward as possible just to represent this concept.
3   Then it's a method of selling goods comprising the steps of selecting
4   human models first of all, of course; representing categories and trying on
5   goods by human models in respective category; and of course one model
6   should be assigned to each category.
7   Then we're obtaining body measurements of customer to find out,
8   actually, where to size. And then based on body measurements, computer
9   system assign customer to certain category and basically match it with his or
10 her representative.
11   Then computer system determines these quantitative revelation marks,
12 selecting smaller group and customer is enabled basically to access this
13 group and to buy this narrow stuff. They are very specific steps and very
14 specific claims.
15   Now, prior art is kind of -- basically examiner applied primary -- prior
16 art is a publication. It's called Accounting and the Internet. Basically it's
17 some kind of article in new accounting magazine which -- for accounting
18 which just describes some kind of custom tailored online company named
19 Virtual Clothiers or whatever.
20   What this company doing, they just accept orders for tailoring. It's not
21 shopping online even. Quite frankly, I was surprised because I believed that
22 then I could find at least something shopping online. So many publications
23 now shopping online.
24   But anyway, this company accept order through Internet. And only
25 things that they are doing is they play video clips displaying video and some
26 clips are available to display and describe the clothing on human models

1   with varying physical characteristics. It's basically only mentioning of

2   human models and everything I told you before.

3   What these people doing is when you are ordering your stuff, you can

4   look at clips of different models showing different stuff. Basically I believe

5   this is pretty standard because on any site you can see a lot of video clips, a

6   lot of models, basically like fashion show. In some stores when you come,

7   you see on screens fashion show like models. But has probably nothing in

8   common.

9   Then they accept order and create this tailor-made stuff based on

10   mathematical models, what's interesting. And this is actually important here

11   because when I wrote my case, I ask the guy, Why actually you need human

12   models? Probably it's much easier to put mathematical models there. Quite

13   logical for me.

14   Told that it's exactly against his invention because his invention is

15   about human perception. I don't know whether he's right or wrong, but at

16   least he believes that only human being can represent experience of another

17   human being.

18   The reason why actually from the very beginning I limited application

19   only to human beings and even put some sentence in specification that

20   claimed invention addresses problem of inability of computer-generated

21   images generated based on mathematical models to accurately represent

22   human bodies.

23   And basically our invention is -- again, what's interesting actually is

24   that inventor is mathematician. And it was kind of surprising, but maybe

25   mathematician doesn't believe in mathematical models. Maybe it's normal,

26   actually.

1   This is a primary reference. Secondary reference was applied by

2   examiner to address quantitative validation marks because, of course, this

3   primary reference say nothing about determining validation marks for

4   different goods or whatever. Nothing at all, quite frankly.

5   And examiner applied different patent. This patent, Gazzuolo, it's

6   again virtual fitting rooms. It's, again, about custom -- about tailoring. It's,

7   again, about trying to create tailor-made stuff online based on your

8   measurement.

9   And again they used mathematical model, but they allow you to select

10 whether you want a fitted model or you want more loose or more -- and if

11 it's fitted, that it's one. If it's loose, it's two. If it's just less tight, then it's

12 four. Like that. Then absolutely different marks. It doesn't try to preselect

13 stuff or to limit, actually, this category.

14   When I tried to find like in consideration of obviousness, of course I

15 was trying to find difference between combined teaching of the reference

16 and claimed invention.

17   And of course it seems that we don't -- the difference is that invention

18 allows matching customer -- computer matching customer with human

19 models, human representative to find correct human representative for

20 model and selecting -- preselecting smaller number of items among goods

21 available in the certain category based on the marks established when it was

22 tried by this model.

23   The language kind of difficult, but you know, it's difficult to describe,

24 quite frankly, this invention. I had real problems writing this case, as you

25 can imagine, because it's very unusual.

26   Basically I thought about unexpected results, of course, and it seems

1 that results quite unexpected. At least I would never expect from approach

2 like that to solving a problem for online shopping.

3   I'm not sure that this approach will work, but at least it's kind of

4 unusual probably. And if it's unusual, it's more crazy than obvious,

5 probably, I will say, quite frankly.

6   Just problem with this case is that if you look at each step separately,

7 then nothing special actually because okay, you select human, okay you are

8 trying, okay you determine based on body measurement, assign a customer.

9   You know, each step it's typical approach when -- you can't consider

10 obviousness based on each separate step. You need to look at invention as a

11 whole. It's never that important as in this case.

12   If I had some -- if I was able, actually, to describe claims maybe in

13 kind of unusual language but just probably it's impossible because you

14 describe it in each kind of regular step. And as a result, in combination you

15 have invention, but if you put step-by-step approach, of course, if you

16 compare, you find something, of course.

17   Like examiner told me, Okay, you determined validation marks. I

18 look at stuff, at this monitor and see whether it's bad or good. It's a

19 validation mark. Yes, it's validation mark. He's right.

20   But you can't look just at this step. You can look at everything

21 probably. My point is that please look at it as a whole. Thank you.

22   JUDGE CRAWFORD: Thank you.

23   (Whereupon, the proceedings at 9:18 a.m. were concluded.)